

# FARMINGTON POLICE DEPARTMENT

## POLICY AND PROCEDURE



**Policy Number:**  
261-03

**Effective Date:**  
08/17/2016

**Subject:**  
Special Circumstances in Traffic Enforcement

**Approved by:**  
  
**Steven D. Hebbe, Chief of Police**



### **PURPOSE:**

To address all special processing requirements or procedures that apply to traffic law violations committed by nonresidents, juveniles, legislators, foreign diplomats, and military personnel.

### **POLICY:**

It is our policy to have written directives that address the procedural handling of traffic violators that are members of a classification of persons that through legal and jurisdictional complexities are entitled to special or altered processing of enforcement actions.

### **PROCEDURE:**

#### **Non-Resident Violators:**

The Farmington Police Department does not distinguish between resident and non-resident violators of traffic laws as contained in the State of New Mexico Motor Vehicle Code and the Traffic and Vehicles Codes of Farmington City.

Drivers may acknowledge guilt of offenses contained within the penalty assessment program and agree to pay the penalty. When choosing a court appearance, drivers may sign the citation and continue to their destination except for those violations which require that the drivers be arrested.

#### **Juveniles:**

The procedure for handling juvenile traffic violators is governed by the Children's Code.

1. Juveniles charged with traffic violations not resulting in detention or arrest can be cited into the appropriate Magistrate or Municipal Court;

2. Juveniles are afforded extra Constitutional protections by New Mexico Case Law. Prior to any questioning of a juvenile regarding a criminal offense, including traffic violations, juvenile offenders and suspected juvenile offenders must be advised of their Miranda Rights for Juveniles consistent with Policy 242-13, Constitutional Requirements for Questioning by Law Enforcement Personnel;
3. Juveniles may acknowledge guilt of traffic offenses contained within the penalty assessment program and agree to pay the penalty;
4. A juvenile who is investigated for Driving While Impaired is given the same sobriety tests as an adult. Officers may administer Breath Alcohol Tests to juveniles or obtain a blood specimen at an appropriate medical facility;
5. Juveniles detained for traffic violations for which an adult would normally be arrested; DWI, Reckless, or other Misdemeanor traffic violations in conjunction with other criminal offenses, shall have their citations marked On Demand in the court appearance portion of the citation.

### **Legislators:**

Legislators will be treated the same as other violators with one exception:

Legislators traveling to, returning from and traveling during any current legislative session shall be granted immunity during these times as is covered under the New Mexico State Constitution Article IV, Section 13, as follows:

"Members of the Legislature shall, in all cases except treason, felony and breach of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and on going to and returning from the same. And they shall not be questioned in any other place for any speech or debate or for any vote cast in either house."

### **Foreign Diplomats/Consular Officials:**

Policy numbers 274-04 and 274-05 discuss issues involving Foreign Diplomats and Consular Officials in greater detail and can be used as a reference for these procedures.

### **Moving Violations:**

When a Consular Official is stopped for a moving violation, the officer on the scene, upon being advised by the driver that they are a Consular Official and ascertaining that they possess the proper credentials, should exercise discretion based on the nature of the violation and either dismiss the motorist with a warning of the danger of their actions or proceed with the appropriate enforcement. Mere issuance of a traffic citation does not constitute arrest or detention.

Foreign Diplomats, their families, their servants, and their employees, provided that they are not nationals or a permanent resident of the United States, are granted unlimited immunity from arrest, detention, or prosecution with respect to any civil or criminal offense.

**Driving While Intoxicated:**

The primary consideration in this type of incident should be to ensure that the Foreign Diplomat or Consular Official does not represent a continuing danger to themselves or the public. Based upon a determination of the circumstances, the following options are available:

1. Take them to the Police Department where they can recover sufficiently to drive safely;
2. Contact a relative, friend, or other official of their government to take custody of them;
3. Call a taxi for them.

**Offenses Involving the Family Members of Consular Officials and Foreign Diplomats:**

Family members of a Consular Official cannot claim immunity; however, in circumstances of traffic violations normally resulting in arrest, consideration should be given to obtaining positive identification of the violator and seeking enforcement through the issuance of a complaint.

Family members of a Foreign Diplomat are granted unlimited immunity from arrest, detention, or prosecution with respect to any civil or criminal offense.

**Military Personnel:**

Military Personnel will be treated in the same manner as other violators with the following exceptions dealing specifically with driver's licenses:

Military personnel are exempt from mandatory driver's license laws and ordinances when:

1. They possess a New Mexico driver's license which is not more than four years old and which expired while the person is in the military service of the United States;
2. They have been honorably discharged within 30 days of the contact;
3. They are in active military service stationed outside the state of New Mexico;
4. They are on leave from military service.